

110TH CONGRESS  
2D SESSION

# H. R. 6180

To require a review of existing trade agreements and renegotiation of existing trade agreements based on the review, to set terms for future trade agreements, to express the sense of the House of Representatives that the role of Congress in trade policymaking should be strengthened, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2008

Mr. MICHAUD (for himself, Mr. PETERSON of Minnesota, Mr. RAHALL, Mr. CONYERS, Mr. BRADY of Pennsylvania, Mr. FILNER, Mr. MURTHA, Ms. DELAURO, Mr. HINCHEY, Mr. DELAHUNT, Ms. SCHAKOWSKY, Ms. LINDA T. SÁNCHEZ of California, Mr. HOLDEN, Mr. ROSS, Mr. VISCLOSKEY, Mr. DAVIS of Illinois, Mr. KILDEE, Mr. GRIJALVA, Ms. WOOLSEY, Mr. DEFazio, Mr. SHULER, Mr. BRALEY of Iowa, Mr. LOEBACK, Mr. HALL of New York, Mr. RYAN of Ohio, Mrs. BOYDA of Kansas, Mr. CHANDLER, Mr. JOHNSON of Georgia, Mr. SARBANES, Mr. HARE, Ms. SUTTON, Mr. JACKSON of Illinois, Mr. LIPINSKI, Mr. ELLISON, Mr. AL GREEN of Texas, Mr. GENE GREEN of Texas, Ms. SOLIS, Ms. KILPATRICK, Ms. MOORE of Wisconsin, Mr. DOYLE, Mr. CLEAVER, Mr. ALLEN, Mr. LYNCH, Mr. JONES of North Carolina, Ms. BALDWIN, Ms. KAPTUR, Mr. KUCINICH, Ms. SHEA-PORTER, Ms. HIRONO, Mr. ARCURI, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. KAGEN, and Mr. WILSON of Ohio) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To require a review of existing trade agreements and renegotiation of existing trade agreements based on the review, to set terms for future trade agreements, to express

the sense of the House of Representatives that the role of Congress in trade policymaking should be strengthened, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Trade Reform, Ac-  
 5       countability, Development, and Employment Act of 2008”  
 6       or the “TRADE Act of 2008”.

7       **SEC. 2. DEFINITIONS.**

8       In this Act:

9               (1) CORE LABOR STANDARDS.—The term “core  
 10       labor standards” means the core labor rights as  
 11       stated in the International Labour Organization con-  
 12       ventions dealing with—

13               (A) freedom of association and the effec-  
 14       tive recognition of the right to collective bar-  
 15       gaining;

16               (B) the elimination of all forms of forced  
 17       or compulsory labor;

18               (C) the effective abolition of child labor;  
 19       and

20               (D) the elimination of discrimination with  
 21       respect to employment and occupation.

22               (2) MULTILATERAL ENVIRONMENTAL AGREE-  
 23       MENTS.—The term “multilateral environmental

1       agreements” means any international agreement or  
2       provision thereof to which the United States is a  
3       party and which is intended to protect, or has the  
4       effect of protecting, the environment or human  
5       health.

6               (3) TRADE AGREEMENTS.—

7               (A) IN GENERAL.—The term “trade agree-  
8       ment” includes the Free Trade Agreements en-  
9       tered into with Australia, Bahrain, Chile,  
10      Israel, Jordan, Morocco, Oman, Peru, and  
11      Singapore, as well as the North American Free  
12      Trade Agreement (NAFTA) and the Dominican  
13      Republic-Central America-U.S. Free Trade  
14      Agreement (CAFTA).

15              (B) URUGUAY ROUND AGREEMENTS.—The  
16      term “trade agreement” includes—

17              (i) the General Agreement on Tariffs  
18      and Trade (GATT 1994) annexed to the  
19      WTO Agreement;

20              (ii) the WTO Agreement described in  
21      section 2(9) of the Uruguay Round Agree-  
22      ments Act (19 U.S.C. 3501(9));

23              (iii) the agreements described in sec-  
24      tion 101(d) of the Uruguay Round Agree-  
25      ments Act (19 U.S.C. 3511(d));

1 (iv) the post Uruguay Round sectoral  
2 agreements on information technology,  
3 telecommunications, and financial services;  
4 and

5 (v) any future WTO agreements that  
6 may result from post Uruguay Round  
7 WTO negotiations.

8 **SEC. 3. REVIEW AND REPORT ON EXISTING TRADE AGREE-**  
9 **MENTS.**

10 (a) IN GENERAL.—Not later than June 30, [2010],  
11 and every 2 years thereafter, the Comptroller General of  
12 the United States shall conduct a review of all trade agree-  
13 ments described in section 2(3) and submit to the Con-  
14 gressional Trade Agreement Review Committee estab-  
15 lished under section 6 a report that includes the informa-  
16 tion required under subsections (b) and (c) and makes the  
17 recommendations required under subsection (d):

18 (1) This review shall relate to the effective op-  
19 eration of the United States trade agreements pro-  
20 gram generally.

21 (2) The State Department, Department of Ag-  
22 riculture, Department of Commerce, Department of  
23 Labor, Department of the Treasury, and other exec-  
24 utive branch agencies shall cooperate with the  
25 Comptroller General of the United States and the

1 Government Accountability Office in providing ac-  
2 cess to foreign and U.S. Government officials and  
3 documents to facilitate the report required.

4 (3) The Comptroller General of the United  
5 States and the Government Accountability Office are  
6 encouraged to use the findings of recent reports and  
7 those now being produced in compiling the informa-  
8 tion required so as to enhance the efficiency of the  
9 process.

10 (b) INFORMATION WITH RESPECT TO TRADE  
11 AGREEMENTS.—The report required under subsection (a)  
12 shall, with respect to each trade agreement described in  
13 section 2(3), include the following information covering  
14 the period between the date on which the agreement en-  
15 tered into force and the date on which the Comptroller  
16 General completes the review:

17 (1) An analysis of the economic impact of each  
18 trade agreement, including—

19 (A) the dollar value in inflation-controlled  
20 terms of goods exported from the United States  
21 and imported into the United States by sector,  
22 State, and year delineated by trade partner  
23 country;

24 (B) job gains and losses in the United  
25 States by sector and State;

1 (C) median wage levels in the United  
2 States in inflation-controlled dollar terms by  
3 sector, State, and year;

4 (D) an analysis of production outsourcing  
5 decisions made by U.S. companies before and  
6 after the implementation of each trade agree-  
7 ment and the rate of value-added production,  
8 number of employees, and competitive position  
9 of industries in the United States significantly  
10 affected by the agreement; and

11 (E) income distribution in the United  
12 States showing distribution by quintile and pov-  
13 erty rates for the United States.

14 (2) A trend analysis of wage levels in inflation-  
15 controlled dollars on a year-by-year basis in—

16 (A) countries with whom the United States  
17 has trade agreements described in section  
18 2(3)(A);

19 (B) countries who comprise the top U.S.  
20 WTO trade partners including Belgium, Brazil,  
21 China, France, Germany, Hong Kong, India,  
22 Ireland, Italy, Japan, South Korea, Malaysia,  
23 Netherlands, Taiwan, and the United Kingdom;

1 (C) countries with whom the United States  
2 has considered establishing Free Trade Agree-  
3 ments including South Africa and Thailand;

4 (D) countries who are party to the Carib-  
5 bean Basin Initiative and the Andean Trade  
6 Preference Drug Eradication Act; and

7 (E) Cambodia and Vietnam.

8 (3) An analysis of agriculture and food-related  
9 outcomes, including—

10 (A) the trend of prices in the United  
11 States for agricultural commodities and food  
12 products that are imported in significant vol-  
13 umes into the United States from a country  
14 that is a party to the agreements described in  
15 section 2(3) on a year-by-year basis;

16 (B) an analysis of the effects, if any, on  
17 price transparency, price discovery, market con-  
18 centration, and fair competition in the markets  
19 for agricultural commodities and food products  
20 that are subject to significant volumes of trade  
21 between the United States and each other coun-  
22 try that is a party to the agreements described  
23 in section 2(3);

24 (C) an analysis of the effects, if any, on  
25 the cost of farm programs in the United States

1           and each other country under the scope of sec-  
2           tion 3(b)(5); and

3           (D) the number of farms operating in the  
4           United States and the number of acres under  
5           production for agricultural commodities that  
6           are exported from the United States to any  
7           other country that is a party to the agreement  
8           on a year-by-year basis.

9           (4) An analysis of compliance with the terms of  
10          the relevant agreements in effect between the United  
11          States and each country listed in section 3(b)(2) in-  
12          cluding a description of any outstanding disputes be-  
13          tween the United States and any country that is a  
14          party to the agreements listed in section 2(3), and  
15          the status of all laws, regulations, or policies of the  
16          United States or any State that any country that is  
17          a party to such an agreement has challenged, or  
18          threatened to challenge, under the agreements.

19          (5) An analysis of the adequacy of the U.S. ca-  
20          pacity to ensure trade agreement partners' compli-  
21          ance with Customs and other U.S. regulatory re-  
22          quirements, including as regards the agreements list-  
23          ed in section 2(3): ensuring duty payment and  
24          amount of duties collected by the United States on  
25          goods imported into the United States; an analysis



1 of the rate and adequacy of inspections of food and  
2 other products imported; and an assessment of the  
3 extent to which goods produced in a country that is  
4 a party to the agreements listed in section 2(3) are  
5 transshipped through other countries with which the  
6 United States has a bilateral or regional agreement  
7 in effect that may result in a rate of duty on such  
8 goods that is lower than the rate of duty under the  
9 agreement.

10 (6) A description of any privatization of public  
11 sector services, in the United States or in any coun-  
12 try that is a party to the agreements listed in sec-  
13 tion 2(3), if those sectors are covered by investment,  
14 financial services, or services provisions of the agree-  
15 ment, including an analysis of any effect such pri-  
16 vatization has had on the access of consumers to es-  
17 sential services, such as health care, electricity, gas,  
18 water, telephone service, or other utilities.

19 (7) An analysis of the price of pharmaceuticals  
20 and any effect that changes in the price of pharma-  
21 ceuticals has had on the access of consumers to af-  
22 fordable medicines in the United States or any coun-  
23 try that is a party to the agreements listed in sec-  
24 tion 2(3).

1           (8) A list of any potential concerns posed by  
2           any country that is a party to the agreements listed  
3           in section 2(3) to the national security of the United  
4           States, including—

5                   (A) any potential effect on the efforts of  
6                   the United States to increase the energy self-  
7                   sufficiency of the United States;

8                   (B) any increase in narco-trafficking as a  
9                   result of economic pressures on farmers in any  
10                  such country to grow illegal crops; and

11                  (C) any increase in poverty in any such  
12                  country as a result of the displacement of work-  
13                  ers in sectors impacted by the agreement.

14           (9) An analysis of trends in the number of im-  
15           migrants, including undocumented immigrants, en-  
16           tering the United States on a year-by-year basis  
17           from each country that is a party to the agreements  
18           listed in section 2(3).

19           (10) An assessment of the consequences of sig-  
20           nificant currency movements and a determination of  
21           whether the currency of a country that is a party to  
22           the agreements listed in section 2(3) is misaligned  
23           deliberately to promote a competitive advantage in  
24           international trade for that country.

1           (11) An analysis of contracts for the procure-  
2           ment of goods or services by Federal or State gov-  
3           ernment agencies from persons operating in any  
4           country that is a party to the agreements listed in  
5           section 2(3).

6           (c) INFORMATION ON COUNTRIES THAT ARE PAR-  
7           TIES TO TRADE AGREEMENTS.—With respect to each  
8           country with respect to which the United States has a  
9           trade agreement listed in section 2(3) in effect, the report  
10          required under subsection (a) shall include information re-  
11          garding whether that country—

12                (1) has a democratic form of government;

13                (2) respects [core] labor rights, as defined by  
14           the Committee of Experts on the Application of Con-  
15           ventions and Recommendations and the Conference  
16           Committee on the Application of Standards of the  
17           International Labour Organization;

18                (3) respects fundamental human rights, as de-  
19           termined by the Secretary of State in the annual  
20           country reports on human rights of the Department  
21           of State;

22                (4) is designated as a country of particular con-  
23           cern with respect to religious freedom under section  
24           402(b)(1) of the International Religious Freedom  
25           Act of 1998 (22 U.S.C. 6442(b)(1));

1           (5) is on a list described in subparagraph (B)  
2           or (C) of section 110(b)(1) of the Trafficking Vic-  
3           tims Protection Act of 2000 (22 U.S.C. 7107(b)(1))  
4           (commonly known as tier 2 or tier 3 of the Traf-  
5           ficking in Persons List of the Department of State);

6           (6) has taken effective measures to combat and  
7           prevent public and private corruption, including  
8           measures with respect to tax evasion and money  
9           laundering;

10          (7) complies with the multilateral environmental  
11          agreements to which the country is a party;

12          (8) has in force adequate labor and environ-  
13          mental laws and regulations, has devoted sufficient  
14          resources to implementing such laws and regula-  
15          tions, and has an adequate record of enforcement of  
16          such law and regulations;

17          (9) adequately protects intellectual property  
18          rights; and

19          (10) provides for governmental transparency,  
20          due process of law, and respect for international  
21          agreements.

22          (d) RECOMMENDATIONS.—Each report required  
23          under subsection (a) shall include recommendations of the  
24          Comptroller General for addressing the problems with re-  
25          spect to an agreement identified under subsections (b) and

1 (c). The recommendations shall include suggestions for re-  
2 negotiating the agreement to meet the requirements de-  
3 scribed in section 4(b) and for negotiations with respect  
4 to new trade agreements.

5 (e) CITATIONS.—The Comptroller General shall in-  
6 clude in the report required under subsection (a) citations  
7 to the sources of data used in preparing the report and  
8 a description of the methodologies employed in preparing  
9 the report.

10 (f) PUBLIC COMMENT.—In preparing each report re-  
11 quired under subsection (a), the Comptroller General  
12 shall—

13 (1) hold at least 3 hearings that are open to the  
14 public; and

15 (2) provide an opportunity for members of the  
16 public to testify and submit written comments.

17 (g) PUBLIC AVAILABILITY.—The information in each  
18 report required under subsection (a) shall be made avail-  
19 able to the public not later than 14 days after the Comp-  
20 troller General completes that report.

21 **SEC. 4. INCLUSION OF CERTAIN PROVISIONS IN TRADE**  
22 **AGREEMENTS.**

23 (a) IN GENERAL.—Notwithstanding section 151 of  
24 the Trade Act of 1974 (19 U.S.C. 2191) or any other pro-  
25 vision of law, any bill implementing a trade agreement be-

1 tween the United States and another country that is intro-  
2 duced in Congress after the date of the enactment of this  
3 Act shall not be subject to expedited consideration or spe-  
4 cial procedures regarding amendment or debate unless the  
5 trade agreement meets the requirements described in sub-  
6 section (b).

7 (b) REQUIREMENTS.—Each trade agreement nego-  
8 tiated between the United States and another country  
9 shall meet the following requirements:

10 (1) LABOR STANDARDS.—The labor provisions  
11 shall—

12 (A) be included in the core text of the  
13 agreement;

14 (B) require each country that is a party to  
15 the agreement to adopt into domestic law and  
16 enforce effectively core labor standards;

17 (C) provide that failures to meet the labor  
18 standards required by the agreement shall be  
19 subject to dispute resolution and enforcement  
20 mechanisms and penalties that are at least as  
21 effective as the mechanisms and penalties that  
22 apply to the commercial provisions of the agree-  
23 ment;

1 (D) strengthen the capacity of each coun-  
2 try that is a party to the agreement to promote  
3 and enforce core labor standards;

4 (E)(i) establish a commission composed of  
5 11 representatives specializing in international  
6 and comparative labor rights of which five shall  
7 be representatives of independent labor unions  
8 of countries who are parties to the agreement  
9 and two shall be academic researchers;

10 (ii) provide the commission with sufficient  
11 resources and staff to rigorously and continu-  
12 ously carry out its functions;

13 (iii) vest the commission with authority to  
14 establish specific indicators of compliance with  
15 the obligations set forth in subparagraphs (B),  
16 (C), and (D);

17 (iv) vest the commission with authority to  
18 operate with the rights of a Party in the agree-  
19 ment's dispute resolution system—

20 (I) initiate complaints in an agree-  
21 ment's dispute settlement system under ex-  
22 pedited procedures included in section  
23 4(11) with respect to violations of the obli-  
24 gations set forth in subparagraphs (B),  
25 (C), and (D) thus ensuring that labor

standards violations are subject to dispute resolution and enforcement mechanisms and penalties that are at least as effective as the mechanisms and penalties that apply to the commercial provisions of the agreement;

(II) conduct investigations and hearings on such complaints which shall be considered by the agreement's disputes settlement tribunal on equal standing with submissions of the involved country or countries;

(III) select the two panelists with labor rights expertise one of whom shall be selected by the union members of the commission who shall serve on the three-person dispute resolution tribunal hearing any case initiated by the commission under subparagraph (I);

(IV) review and comment on the dispute resolution panel's preliminary ruling with transmission of the preliminary ruling to the commission to occur simultaneously with transmission of the preliminary ruling to the country or countries involved;



1                   (V) be treated with the status of a  
2                   Party to the dispute throughout all subse-  
3                   quent procedures of appeal, enforcement  
4                   action, or sanction arbitration so as to en-  
5                   sure a country's compliance with the obli-  
6                   gations set forth in subparagraphs (B),  
7                   (C), and (D) or the imposition of penalties  
8                   of sufficient magnitude to ensure full and  
9                   immediate compliance with the obligations  
10                  set forth in subparagraphs (B), (C), and  
11                  (D) and as appropriate incremental reduc-  
12                  tions in trade penalties as benchmarks are  
13                  achieved; and

14                 (VI) any subsequent appeal or sanc-  
15                 tion arbitration panel shall be comprised  
16                 with minimally two panelists with labor  
17                 rights expertise;

18                 (v) vest the commission with authority to  
19                 set benchmarks for increasing compliance with  
20                 such obligations; and

21                 (vi) verify that benchmarks have in fact  
22                 been achieved; and

23                 (F) require any country that is a party to  
24                 the agreement to—

1 (i) cooperate fully with investigations  
2 by the commission required under subpara-  
3 graph (E);

4 (ii) ensure full access by the commis-  
5 sion to workplaces and government agen-  
6 cies responsible for enforcement of labor  
7 rights and standards;

8 (iii) ensure that commission personnel  
9 are able to conduct confidential interviews  
10 with workers, managers, and government  
11 officials;

12 (iv) ensure full access by the commis-  
13 sion to relevant documents of employers  
14 and government agencies; and

15 (v) ensure that workers who seek to  
16 enforce obligations described in this para-  
17 graph are protected against reprisal by em-  
18 ployers.

19 (2) ENVIRONMENTAL AND PUBLIC SAFETY  
20 STANDARDS.—The environmental provisions shall—

21 (A) be included in the text of the agree-  
22 ment;

23 (B) prohibit each country that is a party  
24 to the agreement from weakening, eliminating,  
25 or failing to enforce domestic environmental or

1 other public interest standards to promote trade  
2 or attract investment;

3 (C) require each such country to imple-  
4 ment and enforce fully and effectively, including  
5 through domestic law, the country's obligations  
6 under multilateral environmental agreements  
7 and provide for the enforcement of such obliga-  
8 tions under the agreement;

9 (D) prohibit the trade of products that are  
10 illegally harvested or extracted and the trade of  
11 goods derived from illegally harvested or ex-  
12 tracted natural resources, including timber and  
13 timber products, fish, wildlife, and associated  
14 products, mineral resources, or other environ-  
15 mentally sensitive goods;

16 (E) provide that the failure to meet the en-  
17 vironmental standards required by the agree-  
18 ment be subject to dispute resolution and en-  
19 forcement mechanisms and penalties that are at  
20 least as effective as the mechanisms and pen-  
21 alties that apply to the commercial provisions of  
22 the agreement; and

23 (F) allow each country that is a party to  
24 the agreement to adopt and implement environ-  
25 mental, health, and safety standards, recog-

nizing the legitimate right of governments to protect the environment and public health and safety.

(3) FOOD AND PRODUCT HEALTH AND SAFETY STANDARDS.—If the agreement contains health and safety standards for food and other products, the agreement shall—

(A) establish that food, feed, food ingredients, and other related food products may be imported into the United States from a country that is a party to the agreement only if such products meet or exceed United States standards with respect to food safety, pesticides, inspections, packaging, and labeling;

(B) establish that nonfood products may be imported into the United States from a country that is a party to the agreement only if such products meet or exceed United States standards with respect to health and safety, inspections, packaging, and labeling;

(C) allow each country that is a party to the agreement to impose standards designed to protect public health and safety unless it can be clearly demonstrated that such standards do not protect the public health or safety;

1 (D) authorize the Commissioner of the  
2 Food and Drug Administration and the Con-  
3 sumer Product Safety Commission to assess the  
4 regulatory system of each country that is a  
5 party to the agreement to determine whether  
6 the system provides the same or better protec-  
7 tion of health and safety for food and other  
8 products as provided under the regulatory sys-  
9 tem of the United States;

10 (E) if the Commissioner or the Commis-  
11 sion determines that the regulatory system of  
12 such a country does not provide the same or  
13 better protection of health and safety for food  
14 and other products as provided under the regu-  
15 latory system of the United States, prohibit the  
16 importation into the United States of food and  
17 other products from that country;

18 (F) provide a process by which producers  
19 from countries whose standards are not found  
20 by the Commissioner or the Commission to  
21 meet U.S. standards may have specific facilities  
22 inspected and certified so as to allow products  
23 from approved facilities to be imported into the  
24 United States;

1 (G) if harmonization of food or product  
2 health or safety standards is necessary to facili-  
3 tate trade, such harmonization shall be based  
4 on standards that are no less stringent than  
5 United States standards; and

6 (H) establish mandatory end-use labeling  
7 of imports of milk protein concentrates.

8 (4) SERVICES PROVISIONS.—If the agreement  
9 contains provisions related to the provision of serv-  
10 ices, such provisions shall—

11 (A) preserve the right of Federal, State,  
12 and local governments to maintain essential  
13 public services and to regulate, for the benefit  
14 of the public, services provided to consumers in  
15 the United States;

16 (B)(i) require each country that is a party  
17 to the agreement to establish a positive list of  
18 each service sector that will be subject to the  
19 obligations of the country under the agreement;  
20 and

21 (ii) apply the agreement only to the service  
22 sectors that are on the list described in clause  
23 (i);

24 (C) establish a general exception to market  
25 access obligations that allows a country that is

1 a party to the agreement to maintain or estab-  
2 lish a ban on services the country considers  
3 harmful, if the ban is applied to domestic and  
4 foreign services and service providers alike;

5 (D) require service providers in any coun-  
6 try that is a party to the agreement that pro-  
7 vide services to consumers in the United States  
8 to comply with United States environmental,  
9 land use, safety, privacy, transparency, profes-  
10 sional qualification, and consumer access laws  
11 and regulations;

12 (E) require that services provided to con-  
13 sumers in the United States, such as medical  
14 and financial services, that are subject to pri-  
15 vacy laws and regulations in the United States  
16 may only be provided by service providers in  
17 other countries that provide privacy protections  
18 and protections for confidential information  
19 that are equal to or exceed the protections pro-  
20 vided by United States privacy laws and regula-  
21 tions;

22 (F) not require the privatization of public  
23 services in any country that is a party to the  
24 agreement or the deregulation of a service, in-  
25 cluding services related to national security, So-

1           cial Security, health, public safety, education,  
2           water, sanitation, other utilities, ports, or trans-  
3           portation;

4           (G) not subject local governments to the  
5           service sector obligations under the agreement;  
6           and

7           (H) not include provisions with respect to  
8           immigration or the movement of natural per-  
9           sons.

10          (5) INVESTMENT PROVISIONS.—If the agree-  
11         ment contains provisions related to investment, such  
12         provisions shall—

13           (A) preserve the ability of each country  
14           that is a party to the agreement to regulate for-  
15           eign investment in a manner consistent with the  
16           needs and priorities of the country;

17           (B) allow each such country to place pru-  
18           dential restrictions on speculative capital to re-  
19           duce global financial instability and trade vola-  
20           tility;

21           (C) not be subject to an investor-state dis-  
22           pute settlement mechanism under the agree-  
23           ment;

24           (D) ensure that foreign investors operating  
25           in the United States have rights no greater



1           than the rights provided to domestic investors  
2           by the Constitution of the United States;

3           (E) provide for government-to-government  
4           dispute resolution relating to a government ac-  
5           tion that destroys all value of the real property  
6           of a foreign investor;

7           (F) define the term “investment” to mean  
8           not more than a commitment of capital or ac-  
9           quisition of real property and not to include as-  
10          sumption of risk or expectation of gain or prof-  
11          it;

12          (G) define the term “investor” to mean  
13          only a person who makes a commitment or ac-  
14          quisition described in subparagraph (F);

15          (H) define the term “direct expropriation”  
16          as government actions that do not merely di-  
17          minish the value of property but destroy all  
18          value of the property permanently;

19          (I) not provide a dispute resolution system  
20          under the agreement with regard to the enforce-  
21          ment of contracts between foreign investors and  
22          the government of a country that is a party to  
23          the agreement relating to natural resources,  
24          public works, or other activities under govern-  
25          ment control; and

1           (J) define the standard of minimum treat-  
2           ment to provide no greater legal rights than  
3           United States citizens possess under the due  
4           process clause of section 1 of the 14th amend-  
5           ment to the Constitution of the United States.

6           (6) PROCUREMENT STANDARDS.—If the agree-  
7           ment contains government procurement provisions,  
8           such provisions shall—

9                   (A) require each country that is a party to  
10           the agreement to establish a positive list of in-  
11           dustry sectors, goods, or services that will be  
12           subject to the obligations of the country under  
13           the agreement;

14                   (B) with respect to the United States,  
15           apply only to State governments that specifi-  
16           cally agree to the agreement and only to the in-  
17           dustry sectors, goods, or services specifically  
18           identified by the State government and not  
19           apply to local governments; and

20                   (C) include only technical specifications for  
21           goods or services, or supplier qualifications or  
22           other conditions for receiving government con-  
23           tracts that do not undermine—

24                           (i) prevailing wage policies;

25                           (ii) recycled content policies;

- 1 (iii) sustainable harvest policies;
- 2 (iv) renewable energy policies;
- 3 (v) human rights; or
- 4 (vi) labor project agreements.

5 (7) INTELLECTUAL PROPERTY REQUIRE-  
6 MENTS.—If the agreement contains provisions re-  
7 lated to the protection of intellectual property rights,  
8 such provisions shall—

9 (A) promote adequate and effective protec-  
10 tion of intellectual property rights;

11 (B) include only terms relating to patents  
12 that do not, overtly or in application, limit the  
13 flexibilities and rights established in the Dec-  
14 laration on the TRIPS Agreement and Public  
15 Health, adopted by the World Trade Organiza-  
16 tion at the Fourth Ministerial Conference at  
17 Doha, Qatar on November 14, 2001, particu-  
18 larly the flexibilities and rights relating to the  
19 promotion of access to medicines and the  
20 issuance of compulsory licenses on grounds de-  
21 termined by member states;

22 (C) require that any provisions relating to  
23 the patenting of traditional knowledge be con-  
24 sistent with the Convention on Biological Diver-

1           sity, concluded at Rio de Janeiro June 5, 1992;  
2           and

3           (D) ensure that the access of the public to  
4           essential medicines and to technologies critical  
5           to preventing climate change is not obstructed  
6           by any provision of the agreement relating to  
7           the protection of intellectual property rights.

8           (8) AGRICULTURAL STANDARDS.—If the agree-  
9           ment contains provisions related to agriculture, such  
10          provisions shall—

11          (A) ensure adequate and stable market re-  
12          turns for farmers in each country that is a  
13          party to the agreement;

14          (B) ensure adequate and affordable sup-  
15          plies of safe food for consumers;

16          (C) protect the right of each country that  
17          is a party to the agreement to encourage con-  
18          servation through the use of best practices with  
19          respect to the management and production of  
20          crops;

21          (D) ensure fair treatment of farm laborers  
22          in each such country;

23          (E) protect the right of each country that  
24          is a party to the agreement to prevent dumping  
25          of agricultural commodities at below the cost of

1 production through border regulations or other  
2 mechanisms and policies;

3 (F) protect the right of each such country  
4 to establish policies with respect to food and ag-  
5 riculture that require farmers to receive fair re-  
6 munerations for management and labor that oc-  
7 curs on farms and that allow for inventory  
8 management and strategic food and renewable  
9 energy reserves, while ensuring that such poli-  
10 cies must not aid or abet, or otherwise con-  
11 tribute to, or allow the dumping of agricultural  
12 commodities onto world markets at below the  
13 cost of production;

14 (G) preserve any existing United States  
15 law relating to antitrust and anticompetitive  
16 business practices from being preempted or ren-  
17 dered ineffective by the agreement; and

18 (H) not contain provisions that conflict  
19 with agricultural policy established in United  
20 States law.

21 (9) TRADE REMEDIES AND SAFEGUARDS.—If  
22 the agreement contains trade remedy provisions,  
23 such provisions shall—

24 (A) preserve fully the ability of the United  
25 States to enforce its trade laws, including anti-

1           dumping and countervailing duty laws and safe-  
2           guard laws;

3           (B) not decrease the effectiveness of do-  
4           mestic and international prohibitions on unfair  
5           trade, especially prohibitions on dumping and  
6           subsidies, and domestic and international safe-  
7           guard provisions;

8           (C) establish mechanisms to address and  
9           remedy market distortions that lead to dumping  
10          and subsidization, including overcapacity, car-  
11          telization, and market-access barriers through  
12          strong trade agreement terms disciplining sub-  
13          sidies;

14          (D) allow the United States to maintain  
15          adequate safeguards to ensure that surges of  
16          imported goods do not result in economic bur-  
17          dens on workers, firms, or farmers in the  
18          United States, including providing that such  
19          safeguards go into effect automatically based on  
20          certain criteria;

21          (E) establish mechanisms among the par-  
22          ties to the agreement to examine the trade con-  
23          sequences of significant currency movements  
24          and to scrutinize whether a party's currency is

1 misaligned to promote a competitive advantage  
2 in international trade; and

3 (F) if the currency of a country that is  
4 party to the agreement is deliberately mis-  
5 aligned, establish safeguard remedies that apply  
6 automatically to offset substantial and sus-  
7 tained currency movements.

8 (10) RULES OF ORIGIN PROVISIONS.—If the  
9 agreement contains provisions related to rules of ori-  
10 gin, such provisions shall—

11 (A) ensure, to the fullest extent prac-  
12 ticable, that goods receiving preferential treat-  
13 ment under the agreement are produced using  
14 inputs from a country that is a party to the  
15 agreement; and

16 (B) ensure the effective enforcement of  
17 such provisions.

18 (11) DISPUTE RESOLUTION AND ENFORCEMENT  
19 PROVISIONS.—If the agreement contains provisions  
20 related to dispute resolution, such provisions shall—

21 (A) incorporate the basic due process guar-  
22 antees protected by the Constitution of the  
23 United States, including access to documents,  
24 open hearings, and conflict of interest rules for  
25 judges;

1           (B) require that any dispute settlement  
2           panel, including an appellate panel, dealing with  
3           intellectual property rights or environmental,  
4           health, labor, and other public law issues in-  
5           clude panelists with expertise in such issues;

6           (C) require an expedited process for all  
7           dispute settlement panels and processes related  
8           to violations of an agreement's labor and envi-  
9           ronmental obligations, recognizing that environ-  
10          mental and labor rights and the health, safety,  
11          and freedom of people and possibly irreversible  
12          damage to the physical environment are fun-  
13          damentally different than property rights and  
14          thus require establishment of more expeditious  
15          timelines, together with the necessary resources  
16          for oversight and enforcement; and

17          (D) provide that dispute resolution pro-  
18          ceedings are open to the public and provide  
19          timely public access to information regarding  
20          enforcement, disputes, and ongoing negotiations  
21          related to disputes.

22          (12) TECHNICAL ASSISTANCE.—If the agree-  
23          ment contains technical assistance provisions, such  
24          provisions shall—



1           (A) be designed to raise standards in de-  
2           veloping countries by providing assistance that  
3           ensures respect for diversity of development  
4           paths;

5           (B) be designed to empower civil society  
6           and democratic governments to create sustain-  
7           able, vibrant economies and respect basic  
8           rights;

9           (C) provide that technical assistance shall  
10          not be a substitute for nor supplant economic  
11          assistance; and

12          (D) not promote the exportation of goods  
13          produced with the exploitation of labor or  
14          unsustainable environmental practices.

15          (13) EXCEPTIONS FOR NATIONAL SECURITY  
16          AND OTHER REASONS.—Each agreement shall—

17               (A) include an essential security exception  
18               that permits a country that is a party to the  
19               agreement to apply measures that the country  
20               considers necessary for the maintenance or res-  
21               toration of international peace or security, or  
22               the protection of its own essential security in-  
23               terests, including regarding infrastructure, serv-  
24               ices, manufacturing, and other sectors;

1 (B) explicitly state that if a country in-  
2 vokes the essential security exception in a dis-  
3 pute settlement proceeding, the dispute settle-  
4 ment body hearing the matter shall find that  
5 the exception applies;

6 (C) include a provision that gives priority  
7 to the implementation of bilateral or multilat-  
8 eral agreements relating to public health,  
9 human and labor rights, the environment, or  
10 other public interest goals in the event of any  
11 inconsistency between a trade agreement and  
12 such bilateral or multilateral agreement; and

13 (D) include in its list of general exceptions  
14 the following language: “Notwithstanding any  
15 other provision of this agreement, a provision of  
16 law that is nondiscriminatory on its face and  
17 relates to domestic health, consumer safety, the  
18 environment, labor rights, worker health and  
19 safety, economic equity, consumer access, the  
20 provision of goods or services, or investment,  
21 shall not be subject to challenge under the dis-  
22 pute resolution mechanism established under  
23 this agreement, unless the primary purpose of  
24 the law is to discriminate with respect to mar-  
25 ket access.”.

1           (14) FEDERALISM.—The agreement may only  
2       require a State government to comply with procure-  
3       ment, investment, or services provisions contained in  
4       the agreement if the State government has been con-  
5       sulted in full and has given explicit consent to be  
6       bound by such provisions.

7           (15) TAXATION.—Each agreement shall provide  
8       for tax equity for U.S. producers and U.S. export-  
9       ers, including by forbidding taxation at the border  
10      on U.S. exports in excess of taxes applied at the bor-  
11      der by the United States to imports from parties  
12      and/or banning the rebate of taxes on exports in  
13      amounts in excess of any taxes rebated by the  
14      United States.

15 **SEC. 5. RENEGOTIATION OF EXISTING TRADE AGREE-**  
16 **MENTS.**

17       The President shall submit to Congress a plan for  
18      renegotiating each trade agreement that is in effect on the  
19      date of the enactment of this Act to bring the trade agree-  
20      ment into compliance with the requirements of section  
21      4(b) not later than 90 days before the earlier of the day  
22      on which the President—

23           (1) initiates negotiations with a foreign country  
24      with respect to a new trade agreement; or

1           (2) submits a bill to Congress to implement a  
2       trade agreement.

3 **SEC. 6. ESTABLISHMENT OF CONGRESSIONAL TRADE**  
4 **AGREEMENT REVIEW COMMITTEE.**

5       (a) **ESTABLISHMENT.**—There is established a Con-  
6 gressional Trade Agreement Review Committee.

7       (b) **FUNCTIONS.**—The Committee—

8           (1) shall receive the report of the Comptroller  
9       General of the United States required under section  
10      3;

11          (2) shall review the plan for renegotiation of  
12      trade agreements submitted by the President under  
13      section 5; and

14          (3) may, not later than 60 days after receiving  
15      the plan described in paragraph (2), add items for  
16      renegotiation to the plan, reject recommendations in  
17      the plan, or otherwise amend the plan by a vote of  
18       $\frac{2}{3}$  of the members of the Committee.

19       (c) **APPOINTMENT AND MEMBERSHIP.**—The Com-  
20      mittee shall be composed of the chair and ranking mem-  
21      bers of the following:

22          (1) The Committee on Agriculture of the House  
23      of Representatives.

24          (2) The Committee on Education and Labor of  
25      the House of Representatives.

1           (3) The Committee on Energy and Commerce  
2 of the House of Representatives.

3           (4) The Committee on Financial Services of the  
4 House of Representatives.

5           (5) The Committee on Foreign Affairs of the  
6 House of Representatives.

7           (6) The Committee on the Judiciary of the  
8 House of Representatives.

9           (7) The Committee on Natural Resources of the  
10 House of Representatives.

11          (8) The Committee on Small Business of the  
12 House of Representatives.

13          (9) The Committee on Transportation and In-  
14 frastructure of the House of Representatives.

15          (10) The Committee on Ways and Means of the  
16 House of Representatives.

17          (11) The Committee on Agriculture, Nutrition,  
18 and Forestry of the Senate.

19          (12) The Committee on Banking, Housing, and  
20 Urban Affairs of the Senate.

21          (13) The Committee on Commerce, Science,  
22 and Transportation of the Senate.

23          (14) The Committee on Energy and Natural  
24 Resources of the Senate.

1           (15) The Committee on Environment and Pub-  
2       lic Works of the Senate.

3           (16) The Committee on Finance of the Senate.

4           (17) The Committee on Foreign Relations of  
5       the Senate.

6           (18) The Committee on Health, Education,  
7       Labor, and Pensions of the Senate.

8           (19) The Committee on the Judiciary of the  
9       Senate.

10          (20) The Committee on Small Business and  
11       Entrepreneurship of the Senate.

12 **SEC. 7. SENSE OF CONGRESS ON REQUIREMENTS FOR**  
13 **TRADE AGREEMENTS.**

14       (a) IN GENERAL.—It is the sense of Congress that  
15 the requirements described in subsection (b) shall apply  
16 to any trade agreement that—

17           (1) is in effect with respect to the United  
18       States on the date of the enactment of this Act; or

19           (2) enters into force with respect to the United  
20       States on or after such date of enactment.

21       (b) REQUIREMENTS WITH RESPECT TO TRADE  
22 AGREEMENTS.—The requirements described in this sub-  
23 section are the following:

24           (1) The trade agreement shall result in the cre-  
25       ation of jobs in the United States, increased wages,

1 and a reduction of the trade deficit by providing fair  
2 and transparent market access while preserving the  
3 ability of the United States—

4 (A) to enforce domestic trade laws; and

5 (B) to address the negative impacts of cur-  
6 rency manipulation, financial instability, and  
7 high debt burdens on United States trade rela-  
8 tionships.

9 (2) The trade agreement shall preserve the abil-  
10 ity of the United States and the government of any  
11 country that is a party to the agreement to foster  
12 and secure economic, social, and human development  
13 so that the people of the United States can benefit  
14 from—

15 (A) strong environmental, labor, health,  
16 and safety laws; and

17 (B) economic development policies designed  
18 to increase job availability and stable industries,  
19 revitalize the manufacturing base in the United  
20 States, and bring economic opportunity to com-  
21 munities hard hit by past trade policies.

22 (3) The trade agreement shall create a predict-  
23 able structure for international trade without pro-  
24 viding foreign investors with overreaching privileges

1 and rights of private enforcement that distort invest-  
2 ment decisions.

3 (4) The trade agreement shall enable Federal,  
4 State, and local governments—

5 (A) to regulate in the public interest;

6 (B) to develop procurement policies that  
7 create and maintain good jobs;

8 (C) to promote economic opportunity and  
9 development and achieve other legitimate social  
10 goals; and

11 (D) to provide high-quality public services  
12 and regulate all essential services to protect the  
13 public interest.

14 (5) The trade agreement shall ensure that prod-  
15 ucts imported into the United States, including food,  
16 meet U.S. safety standards, are thoroughly in-  
17 spected, and accurately labeled.

18 (6) The trade agreement shall enable the public  
19 to participate meaningfully in the decisions of the  
20 Federal Government relating to trade, based on a  
21 process that is open, democratic, and fair.

22 (7) The trade agreement shall specifically pro-  
23 vide that the trade agreement does not allow for the  
24 preemption of the federalist system of the United



1 States with respect to issues of State and local pol-  
2 icy that are not related to international trade.

3 (8) The trade agreement shall reflect the inter-  
4 ests of the United States in preserving family farms  
5 and using best available management practices.

6 (9) The trade agreement shall promote the abil-  
7 ity of farmers to earn a fair price for their products,  
8 including by prohibiting export subsidies, cartels,  
9 and other anticompetitive practices and promoting  
10 inventory management to stabilize price volatility  
11 and to counter the oversupply problems that lead to  
12 dumping and depressed prices.

13 (10) The trade agreement shall explicitly incor-  
14 porate in the core text of the agreement a require-  
15 ment to adopt into domestic law and effectively en-  
16 force core labor standards.

17 (11) The trade agreement shall—

18 (A) allow any country that is a party to  
19 the agreement to follow environmental, health,  
20 and safety standards adopted in reliance on the  
21 precautionary principle, recognizing the legiti-  
22 mate rights of governments to protect public  
23 health, safety, and the environment;

24 (B) incorporate requirements to adopt into  
25 domestic law and enforce the major multilateral

1 environmental agreements, which comprise the  
2 global consensus on basic environmental protec-  
3 tion; and

4 (C) prohibit the importation of any goods  
5 that are illegally harvested natural resources or  
6 products, or that are otherwise environmentally  
7 sensitive into the United States, and consider  
8 specific measures to enable customs agencies in  
9 all countries that are parties to the agreement,  
10 to meaningfully enforce those prohibitions,  
11 based in the principle that open trade does not  
12 mean illegal trade.

13 (12) The trade agreement shall—

14 (A) provide that failures to meet the labor  
15 and environmental standards required by the  
16 agreement are subject to dispute resolution and  
17 enforcement mechanisms and penalties that are  
18 at least as effective as the mechanisms and pen-  
19 alties that apply to the commercial provisions of  
20 the agreement; and

21 (B) ensure the availability of the resources  
22 necessary for oversight and enforcement of the  
23 labor, environmental, and intellectual property  
24 standards in the agreement.

1           (13) The trade agreement shall establish that,  
2           if the regulatory standards of the countries that are  
3           parties to the agreement need to be harmonized to  
4           facilitate trade, the harmonization shall be based on  
5           standards that are no less stringent than the stand-  
6           ards of the United States.

7   **SEC. 8. SENSE OF CONGRESS ON IMPROVING THE PROCESS**  
8                   **FOR UNITED STATES TRADE NEGOTIATIONS.**

9           (a) It is the sense of Congress that if Congress con-  
10          siders legislation to provide for special procedures for the  
11          consideration of bills to implement trade agreements, that  
12          legislation shall include—

13               (1) readiness criteria for the President to use in  
14          determining whether a country—

15                       (A) is able to meet its obligations under a  
16          trade agreement;

17                       (B) meets the requirements described in  
18          section 3(c); and

19                       (C) is an appropriate country with which  
20          to enter into a trade agreement;

21               (2) a process by which the Committee on Fi-  
22          nance of the Senate and the Committee on Ways  
23          and Means of the House of Representatives review  
24          the determination of the President described in

1 paragraph (1) to verify that the country meets the  
2 criteria;

3 (3) requirements for consultation with Congress  
4 during trade negotiations that require more frequent  
5 consultations than required by the Bipartisan Trade  
6 Promotion Authority Act of 2002 (19 U.S.C. 3801  
7 et seq.), including a process for consultation with  
8 any committee of Congress with jurisdiction over  
9 any area covered by the negotiations;

10 (4) binding negotiating objectives and require-  
11 ments outlining what must and must not be included  
12 in a trade agreement, including the requirements de-  
13 scribed in section 4(b);

14 (5) a process for review and certification by  
15 Congress to ensure that the negotiating objectives  
16 described in paragraph (4) have been met during the  
17 negotiations;

18 (6) a process—

19 (A) by which a State may give informed  
20 consent to be bound by nontariff provisions in  
21 a trade agreement that relate to investment, the  
22 service sector, and procurement; and

23 (B) that prevents a State from being  
24 bound by the provisions described in subpara-  
25 graph (A) if the State has not consented; and

1           (7) a requirement that a trade agreement be  
2       approved by a majority vote in both Houses of Con-  
3       gress before the President may sign the agreement.

○